

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Application by Verizon Maryland Inc.,)	WC Docket No. 02-384
Verizon Washington, D.C. Inc., Verizon)	
West Virginia Inc., Bell Atlantic)	
Communications, Inc. (d/b/a Verizon)	
Long Distance), NYNEX Long)	
Distance Company (d/b/a Verizon)	
Enterprise Solutions), Verizon Global)	
Networks Inc., and Verizon Select)	
Services Inc., for Authorization To)	
Provide In-Region, InterLATA Services)	
in Maryland, Washington, D.C., and)	
West Virginia)	

COMMENTS OF Z-TEL COMMUNICATIONS, INC.

The “Track A” section 271 application for West Virginia should be rejected out of hand. Instead, the Commission should require Verizon withdraw its application until such time as the unbundled network element rules (including the availability of UNE Platform) are finalized and implemented. *Only then* can the Commission rely on – as Verizon asks it to – the presence of Z-Tel Communications, Inc. (“Z-Tel”) and other UNE-P based carriers in West Virginia to show compliance with “Track A” of section 271.

The Verizon Applicants assert that competitors of Verizon West Virginia Inc. are providing service predominantly over their own facilities to both residential and business subscribers in West Virginia, and accordingly that their Application for West Virginia meets the “Track A” filing requirements set forth in section 271 of the Act.¹ In making this showing, the Application relies on the provision by Z-Tel of “predominantly facilities-based” service to

¹ Application at 5.

residential customers in West Virginia.² Z-Tel provides this facilities-based service in West Virginia to its residential customers exclusively through the UNE Platform. In doing so in West Virginia (and Maryland also, for that matter), Z-Tel relies on the availability of the various items enumerated in the section 271 competitive checklist at TELRIC-based rates. Therefore, to extent that the Commission determines that the provision of the UNE Platform (and its constituent elements) is not required by the section 271 checklist at TELRIC-based rates, the Verizon Applicants cannot rely upon the service provided by Z-Tel in West Virginia to support their “Track A” Application, and the Application must be withdrawn by the Parties, or rejected by the Commission.

Moreover, it is no secret that Verizon is actively lobbying the Commission to repeal to UNE Platform rules in CC Docket No. 01-338.³ Verizon must learn to live with the consequences of that advocacy – “killing” the competition UNE-P providers give would undermine the foundation not only for this section 271 application but for most section 271 applications granted to this date. Indeed, it would be arbitrary, capricious and shameful for the

² Application at 9.

³ “Verizon on UNE-P: ‘Kill Those Little Suckers,’” Telecommunications Reports, Jan. 7, 2003 (quoting Verizon’s Vice Chairman, Lawrence Babbio as stating, “Kill those little suckers. That's how [Verizon] feel[s] about UNE-P.”).

Commission to grant the West Virginia 271 application on the basis of UNE-P competition that the Applicant is actively seeking to undermine in a concurrent Commission proceeding.

Respectfully submitted,

/s/

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